Elizabeth A. O'Halloran, Esq. MILODRAGOVICH, DALE. STEINBRENNER & NYGREN, P.C. ttorneys at Law 3 P.O. Box 4947 Missoula, Montana 59806-4947 Telephone: (406) 728-1455 Fax No: (406) 549-7077 Attorneys for Plaintiff 5 6 7 8 MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY 9 Mondilla Deddinista, Li WALLIS ROBERTSON, 10 Cause No. 12-09-300 Plaintiff, 11 -vs-12 LOWES HIW, INC., 13 Defendant. 14 COMES NOW the Plaintiff, by and through counsel of record, and hereby 15 16 alleges the following Complaint: 17 1. Plaintiff Wallis Robertson is and was, at all times relevant to this 18 Complaint, a resident of Missoula County, Montana. 2. 19 Defendant Lowe's HIW, Inc., is a North Carolina corporation whose 20 principal offices are located in Mooresville, North Carolina. 21 3. Defendant Lowe's HIW, Inc., is registered to do business with the 22 Secretary of State for the State of Montana. 23 4 Defendant Lowe's HIW, Inc., maintains a store in Missoula, Montana, located at 3100 N. Reserve St., Missoula, Montana. 24 25 **GENERAL ALLEGATIONS** Plaintiff re-alleges Paragraphs 1-4 above as if fully incorporated 26 27 herein. 28 COMPLAINT AND DEMAND FOR JURY TRIAL - Page ! **EXHIBIT**

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- 6. Plaintiff was continuously employed by Defendant from 1994 and was summarily terminated on November 13, 2008.
- 7. Plaintiff had been a department manager for several departments, as well as an the Install Sales Manager (ISM) for the company for many years. Plaintiff continued to hone her management skills by enrolling in the management training program in August of 2005.
- 8. At the time of her termination, Plaintiff was the Department Manager of Seasonal and Outdoor Power Equipment at the Missoula store.
- 9. Prior to the allegations leading to her termination, Plaintiff had never been disciplined for any performance or work-related issues during the tenure of her employment.
- At the time of her termination, Plaintiff had completed Defendant's 10. probationary period of employment and his employment was not covered by a written, collective bargaining agreement or a written contract of employment for a specific term.
- 11. On November 13, 2008, Plaintiff was summarily terminated as a result of what Defendant deemed to be a violation of store policy in relation to the performance of her duties and responsibilities.
- 12. Defendant relied on an express personnel policy to justify Plaintiff's termination; however, the conduct for which Plaintiff was terminated was not covered under the policy.
- 13. Defendant's express disciplinary policies establish that Plaintiff's termination was of such nature as to require discipline, but not termination.

COUNT I Wrongful Discharge

Plaintiff re-alleges Paragraphs 1-13 above as if fully incorporated 14. herein.

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- 15. Plaintiff's discharge was not for good cause and was a violation of the Montana Wrongful Discharge from Employment Act, Mont. Code Ann. § 39-2-904(2), because Defendant lacked reasonable job-related grounds for the ermination.
- 16. Plaintiff's discharge was in violation of the express personnel policies of the Defendant and was a violation of the Montana Wrongful Discharge from Employment Act, Mont. Code Ann. § 39-2-904(1).

WHERE FORE, Plaintiff requests that this Court grant judgment against Defendant as follows:

- 1. For all remedies and damages under Mont. Code Ann. § 39-2-905, including lost wages and loss of other employee fringe benefits, plus interest thereon in an amount to be determined at trial;
 - 2. For costs of suit; and,
 - 3. For such other and further relief as this Court deems just and proper. DATED this 27th day of February, 2009.

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DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff and demands a jury trial on all issues of fact in the above case.

DATED this 27th day of February, 2009.

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